

Docket No. PG-150120 - Vol. II

WUTC v. Cascade Natural Gas Corporation

January 31, 2017



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BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
Complainant,)
vs.) Docket No. PG-150120
CASCADE NATURAL GAS)
CORPORATION,)
Respondent.)

SETTLEMENT HEARING, VOLUME II
Pages 11-90
ADMINISTRATIVE LAW JUDGE MARGUERITE FRIEDLANDER

9:30 a.m.
January 31, 2017

Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive SW
Olympia, Washington 98504

REPORTED BY: TAYLER RUSSELL, CCR 3358

Buell Realtime Reporting, LLC
1325 Fourth Avenue, Suite 1840
Seattle, Washington 98101
(206) 287-9066 | Seattle
(360) 534-9066 | Olympia
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A P P E A R A N C E S

ADMINISTRATIVE LAW JUDGE:

MARGUERITE E. FRIEDLANDER
Washington Utilities and
Transportation Commission
P.O. Box 47250
1300 South Evergreen Park Drive SW
Olympia, Washington 98504
(360) 664-1136

FOR COMMISSION STAFF:

JULIAN BEATTIE
Assistant Attorney General
1400 South Evergreen Park Drive SW
P.O. Box 40128
Olympia, Washington 98504
360-664-1225
jbeattie@utc.wa.gov

FOR CASCADE NATURAL GAS:

SHEREE STROM CARSON
Perkins Coie
The PSE Building
10885 NE Fourth Street, Suite 700
Bellevue, Washington 98004
(425) 635-1422
scarson@perkinscoie.com

COMMISSIONERS:

DAVID DANNER
PHILIP JONES
ANN RENDAHL

* * * * *

1 OLYMPIA, WASHINGTON; JANUARY 31, 2017

2 9:30 A.M.

3 --o0o--

4 P R O C E E D I N G S

5
6 JUDGE FRIEDLANDER: Good morning. I'm
7 Marguerite Friedlander, the administrative law judge
8 assigned by the Washington Utilities and Transportation
9 Commission to this proceeding. We're here before the
10 Commission on January 31st, 2017, for a hearing on the
11 settlement agreement filed on December 15th, 2016, and
12 entered into by Commission Staff and Cascade Natural Gas
13 Corporation.

14 This is Docket PG-150120. The purpose of
15 the hearing today is to clarify the terms and conditions
16 of the agreement as proposed by these parties.

17 So before we go any further, I would like to
18 take appearances. These will be brief appearances, if
19 the parties would just state their name, spell their
20 last name, and let me know who they have brought with
21 them today.

22 We will begin with Staff.

23 MR. BEATTIE: Thank you, Judge Friedlander.
24 Appearing on behalf of Commission Staff, Julian Beattie
25 with the Washington State Attorney General's Office.

1 Here this morning are Alan Rathbun, who is the Director
2 of Pipeline Safety for Commission Staff, and to his
3 right is Dennis Ritter, who is a pipeline engineer.

4 JUDGE FRIEDLANDER: Thank you.

5 And appearing today on behalf of Cascade.

6 MS. CARSON: Good morning, Your Honor.

7 Sheree Strom Carson appearing on behalf of Cascade
8 Natural Gas. My last name is spelled C-a-r-s-o-n, and
9 appearing as witnesses on behalf of Cascade Natural Gas
10 are Eric Martuscelli, who is the Vice President of
11 Operations for Cascade, Jeremy Ogden, who is the
12 Director of Engineering Services, and Mike Eutsey, who
13 is the Director of Operation Services.

14 Also here from Cascade are Nicole Kivisto,
15 President and CEO of Cascade, Scott Madison, the
16 Executive Vice president and General Manager of Cascade,
17 Mark Chiles, Vice President of Regulatory Affairs and
18 Customer Service, and Mike Parvinen, Director of
19 Regulatory.

20 JUDGE FRIEDLANDER: Okay. Thank you.

21 So my plan for today is to take
22 administrative notice of several documents that have
23 either been filed in this docket or have been referenced
24 by Staff in its original pleadings. Then I'd like to
25 address any procedural issues that the parties wish to

1 bring to my attention, and then I will swear in the
2 panel of witnesses offered in support of the settlement.
3 And then at that time, after swearing in the witnesses,
4 I will bring the Commissioners back into the hearing
5 room, and we will proceed with opening statements of the
6 parties if they wish to do so.

7 So at this time, I'd like to take official
8 notice of the following documents which have either been
9 filed in this proceeding or referenced in Staff's
10 original filing.

11 The first document is the January 12th, 2016
12 letter from Alan Rathbun on behalf of Staff to Jeremy
13 Ogden, an employee of Cascade regarding the violation of
14 the stipulation -- the stipulated agreement.

15 The second is Cascade's MAOP plan, that's
16 Maximum Allowable Operating Pressure plan, filed with
17 the Commission on January 12th, 2016. Both of these
18 documents have been filed in this Docket PG-150120.

19 The third document is the
20 February 18th, 2016 letter from Alan Rathbun on behalf
21 of Staff to Eric Martuscelli -- I hope I'm pronouncing
22 that right.

23 MR. MARTUSCELLI: That's correct.

24 JUDGE FRIEDLANDER: Thank you.

25 -- an employee of Cascade regarding the

1 January 29th MAOP plan and Staff's data requests.

2 The fourth document is Cascade's revised
3 MAOP plan filed with the Commission on May 2nd, 2016.

4 The fifth document is Cascade's -- or I'm
5 sorry, Commission Staff's investigation report and
6 appendices filed on July 12th, 2016.

7 The sixth document is the July 8th, 2016
8 letter from Eric Martuscelli on behalf of Cascade to
9 Alan Rathbun, Staff employee, regarding responses to
10 Staff's data requests.

11 The seventh document is the
12 August 11th, 2016 email from Kevin McCallum on behalf of
13 Cascade to Denise Crawford, Staff employee, containing
14 the letter from Eric Martuscelli on behalf of Cascade to
15 Alan Rathbun, Staff employee, providing further comment
16 on Staff's review of Cascade's revised MAOP plan, which
17 was dated April 29th, 2016.

18 The eighth document is the
19 September 2nd, 2016 letter from Alan Rathbun, Staff
20 employee, to Eric Martuscelli on behalf of Cascade
21 regarding the August 11th correspondence.

22 So these documents are available in the
23 Docket PG-150120. The rest of the documents, and there
24 are four of them, I'd also like to take administrative
25 notice of, but they are available on the Commission's

1 website in their appropriate dockets, and they have been
2 referenced by Staff either in the initial complaint or
3 in the investigation report. And those are Order 01 in
4 Docket PG-160293, the order of approving in part and
5 rejecting in part Cascade's 2015 pipe replacement
6 program plan.

7 And the tenth document is Order 01 in Docket
8 PG-131839. It's an order approving Cascade's revised
9 2013 pipe replacement program plan.

10 The 11th document is Commission policy on
11 accelerated replacement of pipeline facilities with
12 elevated risk in Docket UG-120715 issued December 31st
13 of 2012.

14 And finally, Order 02 in Docket PG-110443,
15 the final order accepting settlement agreement.

16 Are there any questions or concerns that
17 anyone wishes to raise about taking official notice of
18 these documents? All right. Hearing nothing, we will
19 move on.

20 I should ask if there's anyone -- I think
21 we've pretty much identified everyone that wishes to put
22 in an appearance in the hearing room, but if there's
23 anyone on the bridge line at this time who wishes to put
24 in an appearance, please do so at this time.

25 All right. Hearing nothing, are there any

1 procedural issues that the parties wish to raise at this
2 time?

3 MR. BEATTIE: No.

4 JUDGE FRIEDLANDER: Okay. Then at this
5 time, I'd like to swear in the witnesses. They've
6 already been seated. So if you will all stand and raise
7 your right hand.

8 (Witnesses sworn.)

9 JUDGE FRIEDLANDER: Thank you. You can be
10 seated.

11 Now I will go and proceed to get the
12 Commissioners in the hearing room, and we will be off
13 the record for a short time. When I come back, if the
14 parties wish to do so, they may make an opening
15 statement at that time.

16 Okay. We're off the record.

17 (A break was taken from
18 9:40 a.m. to 9:43 a.m.)

19 JUDGE FRIEDLANDER: We will go back on the
20 record. For purposes of the record, I would like to
21 identify or have the witnesses identify themselves
22 who -- those who are seated on the witness panel. We
23 will begin with Mr. Eutsey.

24 MR. EUTSEY: Okay.

25 JUDGE FRIEDLANDER: Thank you.

1 MR. EUTSEY: Mike Eutsey, formally Manager
2 of Standards and Compliance and now the Director of
3 Operations Services for Cascade Natural Gas.

4 MR. OGDEN: Jeremy Ogden, Director of
5 Engineering for Cascade Natural Gas.

6 MR. MARTUSCELLI: There it is. Good
7 morning. Eric Martuscelli, Vice President of Operations
8 for Cascade Natural Gas.

9 MR. RITTER: Dennis Ritter, Utilities and
10 Pipeline Engineer with the UTC.

11 MR. RATHBUN: Alan Rathbun, Director of
12 Pipeline Safety with the Utilities and Transportation
13 Commission.

14 JUDGE FRIEDLANDER: Thank you. At this
15 time, if the parties, either Staff or Cascade, wishes to
16 make an opening statement, you're free to do so
17 beginning with Staff.

18 MR. BEATTIE: Thank you, Judge. I would
19 like to reintroduce Alan Rathbun.

20 MR. RATHBUN: Good morning, Judge
21 Friedlander, Chairman Danner, Commissioners Jones and
22 Rendahl. Again, Alan Rathbun, Pipeline Safety Director
23 representing the Commission Pipeline Safety Staff this
24 morning. We bring to you today a proposed resolution to
25 the Cascade complaint in this docket relevant to MAOP

1 compliance across the system. While this resolution
2 will take considerable time to implement, we believe,
3 both Cascade and ourselves, that we have instituted
4 several conditions in this agreement to address pipeline
5 safety. During the -- validation is in progress.

6 Some of those safety conditions that have
7 been opposed as part of this agreement is an assumption
8 by Cascade that for those pipelines that have missing
9 elements, that they -- they assume the most conservative
10 elements of pipe wall thickness and pipe grade to assure
11 safety. That -- where this conservative maximum
12 allowable operating pressure, given these assumptions,
13 is greater than 20 percent, a quarterly leak survey
14 assessment will be made on all those pipe walls.

15 Those pipelines operating, again, with those
16 conservative MAOP considerations, are operating above 30
17 percent specified minimum yield strength, that those
18 pipelines undertake a 20 percent pressure reduction
19 until validation occurred.

20 And then finally, the Company has done a
21 risk assessment based on all these elements of pipelines
22 that are missing validation information and are going
23 about their validation on a risk-based priority system.

24 So with those safety considerations, Staff
25 is comfortable that we have proposed a settlement in the

1 public interest, so thank you.

2 JUDGE FRIEDLANDER: Thank you.

3 And on behalf of Cascade.

4 MS. CARSON: Your Honor, Eric Martuscelli
5 will make a brief statement.

6 JUDGE FRIEDLANDER: Thank you.

7 MR. MARTUSCELLI: Good morning, Your Honor.
8 Good morning, Commissioners. Let me begin by thanking
9 the folks who've been involved, closely involved in this
10 process that have basically arrived here today and
11 gotten us to this point today, all the Staff and all the
12 counsel for all your help getting us here from Cascade
13 and the UTC.

14 We recognize that continuous improvement is
15 necessary and guided by the outcome of this proposed
16 resolution. I can assure you that Cascade is committed
17 to achieving compliance and will do so with results
18 which are in the best interest of both public safety and
19 state and federal regulations, and I look forward to
20 your questions.

21 Thank you.

22 JUDGE FRIEDLANDER: Thank you.

23 Okay. I will open it up to Bench questions
24 from the Commissioners.

25 CHAIRMAN DANNER: All right. Good morning.

1 Thank you, everyone, for your work in developing a
2 settlement in this case. I do have some questions, and
3 I think -- I'm not sure who to direct them to, but I'll
4 just get to my overall concerns that I'm hoping you
5 can -- you can help me out with.

6 In the settlement agreement in paragraph 13,
7 you talk about the request that a suspended penalty be
8 imposed if Cascade, quote, substantially fails to
9 comply. And I'm curious as what do you see as
10 "substantially" because that -- that seems to be a
11 different word than fully comply and what were you
12 getting at there?

13 MR. RATHBUN: Chair Danner, I think from
14 Staff's perspective, I think we obviously wish to see
15 full compliance in everything and I think that clearly
16 is the intent, but we also know that there are
17 conditions which may bring about some -- some delays
18 that are perhaps beyond the -- beyond, you know,
19 anyone's, you know, ability to be able to comply with.
20 Knowing the complexity of doing similar work involved
21 including permitting and things like that, we wanted to
22 at least assure that full compliance is our goal, but
23 that there might be circumstances in which something
24 short of full compliance could be attained at --
25 relative to the timelines especially.

1 CHAIRMAN DANNER: So substantial compliance
2 is -- you're assuming, then, that there's best efforts
3 involved in compliance and that despite these best
4 efforts, you've fallen short because of reasons that are
5 beyond the Company's ability to control?

6 MR. RATHBUN: Yes, Chairman, that's
7 really -- and I think there is a provision in there
8 about -- you know, about the fact that if there is
9 something beyond their control, for instance, permitting
10 oftentimes, especially in urban environments, can be a
11 difficult thing to achieve on time, but we assume best
12 efforts of the Company in attaining compliance within
13 the timeframe's outline.

14 CHAIRMAN DANNER: Yeah, and that's in the
15 same paragraph that also has the force majeure language
16 in there. Again, I mean, that's -- you know, full
17 compliance is the target. I'm just wanting to make sure
18 that we're not creating, you know, with these, creating
19 a loophole of some kind that is going to excuse
20 basically the stronger efforts to reach compliance and,
21 Mr. Martuscelli, I guess I'd like your thoughts on that
22 as well.

23 MR. MARTUSCELLI: Yes, I agree. There may
24 be some circumstances that might prevent us. I
25 appreciate that Alan and Staff have allowed this

1 provision, but our intent is full compliance with this
2 plan, and should we find ourselves in a position where
3 we think we may not meet one of the deadlines due to
4 permitting or issues such as that, then we need to be
5 connecting with Staff as quickly as we can to have that
6 discussion prior to a deadline being missed.

7 CHAIRMAN DANNER: Okay. I will have to go
8 back into this settlement and look. Is there -- is
9 there a requirement in there for that kind of
10 notification ahead of time? In other words, if you know
11 there is going to be a delay of some kind?

12 MR. MARTUSCELLI: Yeah, looking at the
13 settlement agreement, and you're reading through, I
14 don't think there's specific wording as such, but
15 there's just an agreement that we will be in close
16 contact throughout this effort and ensure we're on
17 track, primarily with the six-month updates provided by
18 myself.

19 CHAIRMAN DANNER: Okay. And where are the
20 six-month updates, what paragraph is that in?

21 MR. MARTUSCELLI: That would be paragraph 6.

22 MS. CARSON: On page 6.

23 CHAIRMAN DANNER: Okay. Thank you. Okay.

24 MR. MARTUSCELLI: And I will just add that
25 that is at a minimum, and should we find that we need to

1 be in contact with pipeline safety staff in advance of
2 that timeline, we will be.

3 COMMISSIONER JONES: Mr. Martuscelli, this
4 is Commissioner Jones. On that point, so what have you
5 specifically put in place at the Company for meeting
6 deadlines? Because obviously the -- one of the reasons
7 we're here today is you are five months late and eight
8 months late for the deadlines coming up in the 2015
9 settlement.

10 MR. MARTUSCELLI: Yes, absolutely.

11 COMMISSIONER JONES: So tell us specifically
12 what you've done.

13 MR. MARTUSCELLI: Okay. Mike, I am going to
14 ask you to share what we put in place.

15 MR. EUTSEY: So initially in my new role as
16 the Manager of Standards and Compliance, we recognize an
17 opportunity to improve the tracking and traceability of
18 our communication back and forth to the State, and we
19 did so by creating a procedure and a formal policy, CP20
20 for us actually, and it will ensure that all the
21 communication that goes back from us to you guys, to the
22 Commission Staff, is then tracked initially through an
23 email process and then formally on our compliance
24 tracker and our important dates log.

25 And then finally when we have established a

1 date or a deadline, we are also tracking that on Outlook
2 Calendar, which is another way that we keep that in
3 front of all of the responsible parties for any deadline
4 due to audit, or in this particular scenario, stipulated
5 agreement.

6 MR. MARTUSCELLI: If I may add to that, so
7 after the August deadline that was missed and before we
8 were notified by Staff that we had missed this deadline,
9 we tracked -- normally tracked district audits of
10 standard inspections through a process, through a
11 process with our compliance department. The order being
12 another deadline that was outside of that process was
13 why this was missed. We did not enter that date into
14 that same process or follow that same process. It was
15 recognized between the date we missed and the January
16 date that we were notified that this was a risk, and we
17 actually started implementing this program or coming up
18 with a policy before we were notified through the letter
19 in January.

20 So I just wanted to go on record that we did
21 recognize that. Unfortunately, it didn't -- it didn't
22 help in this case to understand that we had missed this
23 deadline, but we've got a good program in place now.

24 COMMISSIONER RENDAHL: So when you
25 discovered you had missed the deadline ahead of being

1 notified by Staff, did you reach out to Staff and let
2 them know that you just became aware that you had missed
3 this deadline?

4 MR. MARTUSCELLI: We did not know that we
5 had missed this deadline until we received a letter from
6 Alan for this specific issue, for this order.

7 COMMISSIONER RENDAHL: Okay. I guess I
8 misunderstood what I heard you say, that you had
9 discovered that the order hadn't been put in this
10 tracking system, that you had missed the deadline before
11 you became aware of it from Staff. Maybe I
12 misunderstood your testimony.

13 MR. MARTUSCELLI: Yes, being able to look
14 back and know that we weren't tracking this particular
15 order, I have the ability to say that had we had this
16 program in place, we would have been able to do that.
17 We recognized that there was a risk, I don't remember
18 the exact circumstance, that Mike and I had the
19 discussion that there was a risk that we would miss a
20 deadline if we weren't tracking this better or keeping
21 it in front of -- tracking dates, regulatory deadlines,
22 better in front of people and that's what subdated this
23 new policy. Unfortunately, we didn't catch this
24 deadline in the conversation.

25 CHAIRMAN DANNER: So were people working on

1 the plan, though? You know, you missed the deadline,
2 but did you have people assigned to this, were people
3 working on this and they somehow didn't have an end date
4 in their work schedule? What...

5 MR. MARTUSCELLI: Yeah, I'm going to let --
6 it was assigned to Jeremy at the time, and I'll let
7 Jeremy share what was happening at the time.

8 MR. OGDEN: Hello, Jeremy Ogden. I was -- I
9 was the individual assigned to work on this plan, and we
10 had been working on for quite some time. We were
11 working towards that August deadline. Unfortunately,
12 some health issues kept me out of the -- out of work for
13 about the last half of 2015 and in my absence, I realize
14 I should have done a better job of having someone pick
15 up that ball when I dropped it. So that would explain
16 what happened to the work during that time.

17 CHAIRMAN DANNER: Well, I'm sorry to hear
18 about the health issues. I hope they're better.

19 MR. OGDEN: Thank you.

20 CHAIRMAN DANNER: Okay. Other --

21 COMMISSIONER JONES: Mr. Chairman, I just
22 had a follow-up on that -- Mr. Martuscelli. So I've
23 just been rereading the -- Staff's investigation report.
24 So the deadline was August 12th, 2015, you submitted
25 your initial MAOP validation plan on

1 January 29th, 2016, right?

2 MR. MARTUSCELLI: Correct.

3 COMMISSIONER JONES: But then Staff felt
4 that was insufficient and you asked the Commission to
5 excuse noncompliance by granting, quote, allowances.
6 And then you submitted the final plan eight months past
7 due on April 29th, 2016. So are you going to be asking
8 the Commission for any so-called allowances in the
9 future?

10 MR. MARTUSCELLI: No, we will not.

11 COMMISSIONER JONES: Okay. Thank you.

12 COMMISSIONER RENDAHL: Just to verify,
13 Mr. Martuscelli, in this paragraph, subparagraph 6, so
14 it says CNGC will designate a representative who will
15 take responsibility for executing the agreement and you
16 are that representative?

17 MR. MARTUSCELLI: I am.

18 COMMISSIONER RENDAHL: Thank you.

19 COMMISSIONER JONES: I have a couple
20 questions, first for Staff on more clarifying questions,
21 Mr. Rathbun. One is the difference between segments and
22 branch segments. I think in the settlement agreement,
23 you referred to the 116 as segments, but just a little
24 clarifying question, what's the difference?

25 MR. RATHBUN: Excuse me, Commissioner Jones,

1 I think it is probably a little bit difficult for me to
2 clarify exactly. I think the segments and branch
3 segments are probably an indication that we received
4 from the Company relative to that. So they may be best
5 to answer exactly the difference between those two.

6 COMMISSIONER JONES: Okay. Does --
7 Mr. Ogden, do you want to address that?

8 MR. OGDEN: Yes, Mr. Jones. We refer to
9 segments when we have, for example, a pipeline that's
10 multiple miles long. Not all that may have been
11 constructed at the same time. A replacement project may
12 have happened at some point along there, so that
13 pipeline will be divided into segments. Also along that
14 pipeline you can have a branch that comes off that feeds
15 another pipeline or a regulator station or some such
16 facility and that would be a branch segment that -- a
17 short section that is coming off of another pipeline to
18 feed another facility.

19 COMMISSIONER JONES: So is it governed by
20 the distance from the compressor station to the next
21 section of the system or is it something else? What's
22 the differentiating factor?

23 MR. OGDEN: The differentiating factor would
24 be it would be at the beginning of a pipeline between
25 the line it is coming off of and the regulator station

1 for the most part that would be feeding the downstream
2 pipeline.

3 COMMISSIONER JONES: Okay. So there's a
4 little bit of confusion with the math here. I think
5 this is probably addressed to Mr. Ogden. The 116
6 segments described in the settlement agreement in
7 relation to the 400 potential segments, those are both
8 segments, correct?

9 MR. OGDEN: I'm not sure I understood the
10 question correctly, but we have the 116 that are
11 identified. These are those longer pipeline segments
12 that I was just talking about, and then the 400 would be
13 the branch segments that would come off of those. Does
14 that clarify that for you?

15 COMMISSIONER JONES: Yeah, so the 400 are
16 going to be the branch segments coming off of the 116 --

17 MR. OGDEN: That's correct, yes.

18 COMMISSIONER JONES: -- segments. Okay.

19 COMMISSIONER RENDAHL: Are those 400
20 segments also considered high pressure?

21 MR. OGDEN: Yes.

22 COMMISSIONER RENDAHL: Okay. So those
23 potential 400 -- I think this is in reference to an
24 August 12th letter that's been in the record -- so are
25 those 400 potentially the segments that are identified

1 in the settlement as something that your contractor,
2 TRC, is going to be reviewing in coming up with the
3 potential additional segments above 60 PSIG?

4 MR. OGDEN: That is correct. We realize the
5 scope of work involved on that, and that is why TRC is
6 involved. However, before TRC took that over, we did a
7 look at those, assuming the most conservative values to
8 determine if there were any high-risk pipelines. We
9 didn't want to delay that while TRC did their work, so
10 after our review, that way we found one that would be
11 operating at an -- above 20 percent SMYS of the
12 transmission line of -- identified that and incorporated
13 that into our lead survey plan RTM, and then TRC is
14 looking at all of them from there.

15 COMMISSIONER RENDAHL: So TRC is going to
16 evaluate which of those 400 or more segments --

17 MR. OGDEN: TRC will evaluate all of those.

18 COMMISSIONER RENDAHL: Okay. And they'll
19 evaluate any remaining segments to determine whether
20 there's sufficient documentation in compliance with the
21 federal rules and provide a report to you. So I
22 understand that's due in a couple months.

23 MR. OGDEN: Correct, end of the first
24 quarter of this year.

25 COMMISSIONER RENDAHL: So when Mr. Rathbun

1 spoke initially and said that the Company had done a
2 risk assessment and is doing validation under a
3 risk-based process, is that what TRC is doing or you all
4 did a risk assessment initially just to document what
5 segments were there but not necessarily document what --
6 the MAOP? I'm a little bit confused about what the risk
7 assessment was that you did and what now TRC is doing.

8 MR. OGDEN: I think the first risk
9 assessment that we're referring to would be on the 116
10 identified segments. We did perform a risk assessment
11 on that to prioritize the lines that needed to be
12 addressed, and that's the main risk assessment we have.
13 However, like I mentioned earlier, we also did a smaller
14 scale risk assessment on those branch segments before it
15 went to TRC. They will review all of the records that
16 we have and all of our pipelines. The information that
17 comes back to us on those branch segments will then be
18 incorporated into our formal risk assessment and the
19 work will be prioritized on that. Does that answer your
20 question?

21 COMMISSIONER RENDAHL: Yes, it does. So in
22 section 1-B, I guess this is all part of the compliance
23 program, it's paragraph 14 of the settlement agreement
24 and 1-B which is on the bottom of page 4 of the
25 settlement agreement, talks about validating the highest

1 risk pipeline segments. What are the five segments that
2 you've identified? Can you share that with us?

3 MR. OGDEN: Are you asking for the pipeline
4 names, location, that --

5 COMMISSIONER RENDAHL: Correct.

6 MR. OGDEN: Yes. These are the five
7 pipelines that, based on the operating pressure, are
8 above 30 percent SMYS of 16-inch North Whatcom
9 transmission line in our Bellingham district, the 8-inch
10 and 12-inch Bremerton transmission line in our Bremerton
11 district, the 16-inch Fredonia transmission line, and
12 16-inch March Point transmission line in our Mount
13 Vernon district, and the 12-inch South Longview high
14 pressure line in our Longview district.

15 COMMISSIONER RENDAHL: Thank you. So
16 actually, I'm going to ask the Company to vet a response
17 to Bench requests to provide that to the Commission,
18 just that list what you just described in writing, if
19 you wouldn't mind, and then if there's any additional
20 information you want --

21 CHAIRMAN DANNER: Mr. Ogden, if you can
22 repeat the first two of those again. I got Bremerton,
23 Mount Vernon, and South Longview. What were the first
24 two?

25 MR. OGDEN: The first two were 16 North

1 Whatcom transmission line.

2 CHAIRMAN DANNER: Whatcom, okay.

3 COMMISSIONER RENDAHL: That's why I wanted
4 the list because I knew I couldn't remember right now.

5 MR. OGDEN: Was there another one, Chairman
6 Danner?

7 CHAIRMAN DANNER: Yeah, the second one.

8 MR. OGDEN: 8-inch and 12-inch Bremerton
9 transmission line.

10 CHAIRMAN DANNER: Okay. So there's two.

11 All right.

12 MR. OGDEN: It's one line, it's just -- part
13 of it is 8-inch and part of it is 12-inch.

14 CHAIRMAN DANNER: So Whatcom, Bremerton,
15 March Point, and South Longview.

16 MR. OGDEN: There's the 16-inch Fredonia
17 transmission line.

18 JUDGE FRIEDLANDER: So, Mr. Ogden, if you
19 would have -- or you or someone from the Company submit
20 that as a Bench request, Bench request No. 1, when could
21 you get that to us? Later today, tomorrow?

22 MS. CARSON: I would think by tomorrow
23 certainly.

24 JUDGE FRIEDLANDER: Okay. Thank you.

25 COMMISSIONER JONES: Mr. Ogden, on -- just a

1 few specifics on how you assess risk. I think this is
2 described in the settlement agreement narrative, you may
3 want to refer to it, page 11. You talk about a weighted
4 risk matrix containing numerous risk factors with SMYS,
5 S-M-Y-S, being the primary risk driver, correct?

6 MR. OGDEN: Yes, that is --

7 COMMISSIONER JONES: So can you go into a
8 little more detail on that? And what I -- SMYS is the
9 primary risk factor, but what about other risk factors
10 that you can describe to us?

11 MR. OGDEN: Yes, I would be happy to,
12 Commissioner Jones. To begin with, percent SMYS we felt
13 was the highest value with -- when we looked at the
14 risk. It's science-based. As an engineer, I like
15 having the science-based into -- into the risk. It also
16 takes into account the diameter of the pipeline, the
17 pressure of the pipeline, the thickness of the steel in
18 the pipe, and the grade of steel in the pipe. So risk
19 was assigned based on the range of the percent SMYS, so
20 that was our highest factor.

21 The second most important factor in our risk
22 matrix was the pressure test records, whether or not we
23 had those, and then we wanted to also look at the area
24 around the pipe, so the presence of high consequence
25 areas also was weighted heavily. In our stipulated

1 agreement, there was an item about precode pipe with an
2 unknown seam type operating above 30 percent SMYS
3 because of the risk there. So that was another factor
4 that's in our risk matrix.

5 The class location, does the pipe go through
6 fields or does it go through the middle of a city,
7 that's in there. The age of the pipe, the leak history,
8 the construction techniques, if we have any known
9 problems on the pipeline, and then values are assigned
10 if we don't know something, if we are missing the grade
11 of steel and have to make an assumption, we consider
12 that to be a risk. So that was included and all of
13 those were used in the spreadsheet that calculates the
14 risk, the relative risk for each pipeline segment.

15 COMMISSIONER JONES: So is this weighted
16 risk matrix fairly common in your industry for gas
17 obviously and for measuring pipeline safety or is this
18 something that Cascade, that you developed, MDU and
19 Cascade?

20 MR. OGDEN: I think it's common. I think
21 the way that we presented in a spreadsheet like this, it
22 may be unique to us. I don't know if others do the same
23 exercise.

24 COMMISSIONER JONES: Okay. I would like to
25 ask Staff on that.

1 So, Staff, are you comfortable with that?
2 Because obviously I reread your Staff investigation
3 reports. Some of these like high consequence areas
4 are -- I mean, there's no debate about population in an
5 area, but documentation on MAOP obviously was a big
6 focus of the -- of your investigations where you've
7 found that that documentation was lacking and that's a
8 fairly high priority in this risk matrix.

9 MR. RATHBUN: Yes, Commissioner Jones. We
10 understood that -- that the Company Staff had originally
11 proposed a risk matrix. We provided from Staff's input
12 what we felt were really -- were considerations. I
13 think for the most part I think we were in alignment
14 relative to the risk elements that should be taken into
15 consideration. Obviously, anything that is unknown
16 relative to the pipe that's in the ground was an element
17 of risk that needed to be assessed, but obviously
18 surrounding conditions, class location, and then any
19 other indications that they have relative to the history
20 of the pipe had to be taken into consideration.

21 So Staff was comfortable with the matrix
22 that was developed and -- but did -- was participant in,
23 you know, in the settlement agreement to assure those
24 were all taken into consideration.

25 COMMISSIONER JONES: Okay. But I just want

1 to make sure you're comfortable with the -- you appear
2 to be placing a great -- a lot of weight on the 20
3 percent reduction in the pipe where the welding -- the
4 welding is unknown and, of course, that relates to the
5 San Bruno and other things. So I am just -- I just want
6 to make sure that you're -- that Staff is comfortable
7 with the 20 -- it says all invalidated pipeline segments
8 with low frequency seam welds are unknown seam types
9 with preliminary SMYS over 30 percent. So this causes
10 me, at least this Commissioner a little bit of concern.
11 Anytime you see in a settlement agreement things like
12 "unknown" or "invalidated" and the process goes on to
13 2023, at least for me, that causes me some concern.

14 MR. RATHBUN: And -- and -- and we agree,
15 Staff agrees. I think, again, you know, part of that
16 circumstance being that when there were these unknown
17 characteristics of piping wall thickness or grade of
18 pipe that the Company assumed, for lack of a better
19 term, a worse case scenario relative to pipe wall
20 thickness or pipe grade. But then even at that point,
21 we felt the 20 percent reduction, which is -- and
22 actually something that's referenced, you know, in PHMSA
23 code for unknown characteristics we think was
24 appropriate. We think it's kind of a -- it's a little
25 bit of a double safety effort. For one, you make

1 assumptions, be it the least strong pipe and then over
2 above that, you make the 20 percent reduction. We were
3 comfortable with that level of protection.

4 COMMISSIONER JONES: Okay. Back to
5 Mr. Ogden for a minute. So back to the narrative
6 supporting the settlement agreement on page 11 if you're
7 there. You just heard my question to Mr. Rathbun. I,
8 for one, am a little concerned about the process for 100
9 percent validation of these pipes that goes from 2018
10 all way up to 2023. So maybe you can explain to the
11 Bench why it takes so long and what is the process. You
12 say you have already begun -- 300 in situ tests are
13 completed and over one mile of pipe has been replaced.
14 So maybe just take us -- at least take me through that,
15 about the process and why four, five, six years is
16 necessary.

17 MR. OGDEN: As we looked at the -- these 116
18 segments and the work that needed to be done on them, it
19 could be classified into a few different groups. So one
20 is in situ testing, which is then referenced, which is
21 an excavation to use proprietary technology to determine
22 the pipe grade. Another method would be pressure
23 testing the pipeline, taking it out of service, pressure
24 testing, put it back in service. Replacement is another
25 one. Those are our three main ones. Some instances we

1 will expose a fitting and verify it has the proper
2 pressure.

3 With those three main types of remediation,
4 we looked at the volume of work that needed to be done
5 and planned accordingly to do that based on as much work
6 as can be done in a year. There's a lot of information
7 to digest and get into our system. When we first did
8 this, we -- we had a ten-year -- a ten-year schedule,
9 and we started going right away in 2016 with the in situ
10 testing. It's a new technology, and we found that we
11 were able to, because of how well it went using this new
12 technology, we were able to knock three years off that
13 schedule and get it down to seven.

14 So we started out pretty aggressively, found
15 that we could knock three years off and get it down to
16 seven, and we feel the way it is scheduled is something
17 that the Company can accomplish. We don't want to have
18 a plan that's unrealistic. We feel that this is --
19 excuse me -- realistic and we're implying that the
20 methods we think will best get the information as
21 quickly as possible.

22 COMMISSIONER JONES: Thank you.

23 CHAIRMAN DANNER: So the -- what I keep
24 coming back to is these 116 segments, and you're still
25 looking at that so that number can grow; is that right?

1 MR. MARTUSCELLI: That's correct.

2 CHAIRMAN DANNER: And I'm just wondering,
3 are we -- are we -- are we premature here, should we --
4 should we wait for better information before we -- we go
5 ahead or should -- I mean, do we have an idea what the
6 end number is going to be, Mr. Rathbun?

7 MR. RATHBUN: Well, Staff understood that in
8 putting this settlement together, that, I guess, we had
9 a couple of options. One was to wait until we had
10 certainty on everything, in other words, wait for the
11 TRC report to come forward. We were concerned that if
12 we institute an agreement as soon as possible and get --
13 you know, get the Company working towards validation as
14 quickly as possible with some assurance of -- of
15 compliance with -- with given elements.

16 We were -- when notified that there were
17 additional branch segments, we felt -- we felt
18 comfortable in the fact that at least their work was
19 ongoing and what was thought to be their highest
20 priority pipelines and that we were better off
21 instituting an agreement with another agreement perhaps
22 to follow once that more information came to -- came to
23 light. We just did not feel comfortable waiting until
24 all information was available to institute some sort of
25 agreement.

1 COMMISSIONER RENDAHL: So --

2 CHAIRMAN DANNER: I was just going to say
3 that they still have -- you know, they still have the
4 MAOP plan which they have to follow that the -- it's
5 required in 2015, and so wouldn't that work go ahead
6 regardless of if we had a settlement in this case?

7 MR. RATHBUN: Chairman Danner, you're
8 absolutely correct. They were under an order to begin
9 with I understood. We do think, however, that this
10 order added a couple of elements of -- of -- if it -- if
11 it were to agreed to by Commission added some safety
12 conditions that weren't in the original, and I think
13 it -- that we also felt that having a plan that had some
14 accountability dates to it was an enhancement over what
15 that original plan took into account.

16 CHAIRMAN DANNER: Okay. So any other
17 questions on this?

18 COMMISSIONER RENDAHL: So I was going back
19 to the -- just the schedule, which takes a bit of time
20 to understand how it all works. So TRC is supposed to
21 finish its records review by March 31st, but their
22 report is not due until the end of the year or at least
23 they're supposed to submit -- the Company's going to
24 submit an updated timeline based on any additions and
25 that's nine months after that. And then three months

1 after that, so in a year and three months, we'll have an
2 amended settlement. Since the language in the
3 settlement seems to say these are all the penalties that
4 could be imposed and, you know, certain suspensions for
5 certain items, what is the additional amended settlement
6 going to give the Commission in terms of ability to
7 ensure that deadlines are met for these additional
8 segments? What does that give us that this settlement
9 doesn't give us?

10 MR. RATHBUN: I -- the plan is to have an
11 additional prioritized plan to come forward. As you've
12 heard Mr. Ogden state, there are preliminary assessments
13 in looking at branch segments that they have identified
14 was that perhaps only one of the pipelines would fall in
15 the -- above 20 percent SMYS range. But I think what
16 Staff really wanted to see was a full evaluation of all
17 their pipelines to assure that there wasn't anything
18 else missing and, therefore, to put that into a plan
19 that would fully address all their high-pressure
20 pipelines, anything above 60 PSI within our system and
21 to make sure that it's appropriately prioritized and
22 appropriately mitigated in accordance to the -- that
23 risk evaluation.

24 COMMISSIONER RENDAHL: So it really just
25 gives us updated completion dates and it would be a

1 complete plan and then the settlement -- amended
2 settlement might discuss some amended completion dates?

3 MR. RATHBUN: That would be -- that was
4 Staff's understanding is it would be an amended -- it
5 would be -- it would be an amended plan. I'm not sure I
6 can speak right now to the fact as to whether or not,
7 you know, there is an assumption that there's anything
8 beyond 2023. I guess that's -- the Company may be able
9 to better respond to that, but I think they're still
10 waiting to gather that information.

11 COMMISSIONER RENDAHL: Well, the settlement
12 agreement appears to imply that there could be
13 disagreements about that completion date and reserves
14 the right to address that. So maybe the Company should
15 respond to that about what the purpose of the amended
16 settlement is. It's -- I mean, it seems to be an
17 amended plan with potential amended completion dates,
18 and I guess Mr. Rathbun raised the question of whether
19 this goes beyond 2023. Can you speak to that?

20 MR. MARTUSCELLI: Yes, it's definitely our
21 understanding that depending on what we get back from
22 TRC and understanding that the other segments might not
23 be validated, that we would enter into discussions about
24 how much longer it would take us to validate all the
25 pipelines. I think as we -- we've done our initial

1 review of these pipelines and indicated there's not any
2 that seem to be elevated above the risk that we're
3 seeing here because of SMYS, that these would likely
4 fall to the end of the order to be addressed after these
5 segments are addressed in the prior [inaudible]. Until
6 we know exactly the results of the TRC review, we're not
7 going to know exactly how much work there might be to
8 do.

9 COMMISSIONER JONES: So, Mr. Martuscelli,
10 Commissioner Rendahl asked you a few questions on the
11 six-month report, and you're going to be the person
12 submitting the six-month report to us, right?

13 MR. MARTUSCELLI: Right.

14 COMMISSIONER JONES: And that will go both
15 to, I assume to Staff and the Commission and the
16 Commissioners. So tell us how you're going to write
17 that up. For example, if TRC responding to her question
18 or if you find a SMYS, an additional line segment or
19 two, what are going to put in that report? You're just
20 going to identify that line segment or are you going to
21 have an action or a mitigation plan? Just talk about
22 how you intend to structure this report.

23 MR. MARTUSCELLI: Sure. So when TRC
24 provides their information, I believe we will have a
25 full discussion with Staff about the results of that. I

1 would not put that in a six-month letter without
2 previous discussion. So I would intend to have a direct
3 conversation with them and start the discussion about
4 potential amended timeline on incorporating additional
5 segments into completion.

6 As far as the six-month update would go, it
7 would be clearly just that. Where are we today, what
8 progress have we made since the previous update, and
9 include any lines that have been validated. We
10 discussed that a little bit today. Was that -- how are
11 we going to initiate that discussion where we believe
12 the lines are validated for our procedure and how
13 quickly can we get the review done between Staff and the
14 Company.

15 I see this as an ongoing communication.
16 Certainly we've identified that six months might be
17 the -- you know, the indicator where we make
18 communication, but I would fully intend that we would
19 likely have discussion in between that period, and the
20 six-month update would be a formality to what we've
21 completed at that time.

22 COMMISSIONER JONES: So the six-month you're
23 describing as more of a formality, but there will be
24 lots of informal meetings, communication going back
25 between you and Mr. Ritter and Mr. Rathbun and members

1 of our Staff, right?

2 MR. MARTUSCELLI: I would certainly hope so.
3 This is something that we're going to want to keep them
4 up to date with as we -- as we go along. We, you know,
5 landed on the six months, so we're not providing too
6 many updates with too little information. But as
7 information becomes available, we certainly want to let
8 them know.

9 COMMISSIONER JONES: Mr. Rathbun, are you
10 comfortable with that approach? I mean, with any
11 enforcement action, of course, is a mix of formal
12 enforcement with an order from the Commission. But I
13 also believe that informal and a good working
14 relationship is -- is really critical as well. So are
15 you comfortable with that?

16 MR. RATHBUN: Yeah, we're comfortable with
17 the timeframe that's in the agreement. I think we --
18 as -- as -- as Eric said this morning, we had a further
19 conversation about how we progress from a standpoint of
20 that communication, and there are also many elements in
21 here in which the Company communicates with us that they
22 have validated certain lines that would then require
23 them -- allow them to remove it from leak survey or the
24 30 percent or the 20 percent reduction. Those are
25 elements that are -- Staff is still going to be

1 contacted on, and we would react to that -- in large
2 part probably have a face-to-face meeting.

3 And, again, we will continue to monitor
4 overall Cascade's operation through our normal
5 inspection procedures, and that gives us another
6 opportunity to routinely check with Staff and each
7 district and at headquarters when necessary to keep
8 those communication lines open.

9 CHAIRMAN DANNER: So communication is one
10 thing, and I am glad that we're increasing that. But
11 the other enforcement, and this is a company that, going
12 back to 2011, that said they had an overall lack of
13 compliance and, you know, since then we've had some
14 other bumps in the road. It seems to me that what we
15 want to do with the settlement here is make sure that we
16 can keep the Company's feet to the fire so that we will
17 be -- you know, it's really looking over their shoulder
18 at all times and trust to verify.

19 And so I'm -- one of the things that gave me
20 a little pause when I read this is you have certain
21 steps along the way to which you've assigned penalty
22 amounts, okay? They don't do \$250,000, they don't do
23 \$500,000, but these other steps which seem to be
24 important steps, there's no discussion of any ability to
25 enforce or say, hey, you missed that deadline. I mean,

1 normally when we do a penalty with a suspension, if
2 the -- if there's a further violation, then the
3 suspended amount, even if it's a minor -- minor thing,
4 the entire amount becomes due because they violated
5 another rule or missed a settlement provision.

6 I'm just wondering if we need to make --
7 instead of assigning certain amounts to certain things,
8 we need to have the ability to go enforce -- you know,
9 if we're seeing you're not meeting the deadlines or the
10 communication is not happening, and I don't see our
11 ability to kind of have that overall enforcement
12 mechanism in this. I see it's kind of broken out into
13 chunks, and some things have penalties attached to them
14 and some don't.

15 So I would like your thoughts on that. I
16 mean, if it's -- you know, the Company says
17 December 31st, '17 they'll validate and document the
18 basis for the highest segments. What if they don't? I
19 don't think we can do anything other than say, gosh,
20 give it to us, then.

21 MR. RATHBUN: Excuse me, Chair Danner, which
22 paragraph were you talking about there? Was that...

23 CHAIRMAN DANNER: 1-B, right here.

24 COMMISSIONER RENDAHL: If you read through
25 that section, some of the --

1 CHAIRMAN DANNER: The compliance program has
2 certain areas that are bolded so, okay. We can -- we
3 can enforce this with the penalty, and there's others
4 that don't. So the ones that don't, if the Company
5 doesn't comply, whatever?

6 MR. RATHBUN: Understood, and when Staff
7 had -- when Staff had proposed and in aligning the
8 suspended penalty was, from our perspective, to align
9 where those deadlines were most critical from our
10 perspective. That's the way we had done it, but I
11 understand the concern that the Chair raises. That's
12 what we had proposed was around -- rather than -- rather
13 than spreading it out all over and putting it all on one
14 point, we wanted to -- we wanted to assure compliance
15 and hold accountability at those major elements that
16 Staff felt were critical in the settlement.

17 CHAIRMAN DANNER: I mean, another way to do
18 it is simply not break it out, and when we see
19 violations that are significant, then we can come back
20 and, you know, further -- further violations. Again, I
21 mean, I don't -- I don't want to have a plan that is --
22 that has number of steps in it if we don't have -- if we
23 think those steps are important, we should have an
24 enforcement mechanism, especially with the history we've
25 had with the Company since 2011. So I'm -- I think I

1 would like to see a little more flexibility on our part
2 to be able to enforce what we think is important for us
3 to enforce.

4 MS. CARSON: Chairman Danner, if I might
5 address that?

6 CHAIRMAN DANNER: Sure.

7 MS. CARSON: I think that the Commission has
8 the ability to enforce settlement agreements whether or
9 not there are suspended penalties. And with the
10 forbearance provision here, there is forbearance as long
11 as the Company is performing the actions set forth in
12 this agreement. So I think if the Company was to just
13 ignore the TRC deadline, I think the Commission does
14 have steps that it can take other than suspended
15 penalties.

16 CHAIRMAN DANNER: Okay. So let's -- let's
17 turn to -- on page 7, paragraph 10. It says that, (as
18 read) Current suspended penalties imposed by the
19 Commission as part of this agreement with penalties for
20 any continuation of the violations during this period of
21 correction. Staff agrees to forbear recommending
22 penalties to the Commission if it discovers similar
23 violations relating to MAOP validation pertaining to
24 high pressure pipe, while CNG performs the action set
25 forth in this agreement and complies with the terms.

1 So -- and I haven't parsed that out as much
2 as I would like, but I just -- you know, if I look at
3 some of these nonbolded provisions, it's your position
4 that we could -- we could impose penalties at that
5 point?

6 MS. CARSON: Well, I think it would be a
7 violation, that there could potentially be a violation
8 of a settlement agreement and a Commission order, and
9 you have all the remedies that you always have available
10 for that. I mean, you may not have --

11 CHAIRMAN DANNER: So what is the
12 forbearance, then? What are we -- I mean, I think
13 we're -- I thought we were agreeing to forbear.

14 MS. CARSON: You are agreeing to forbear as
15 long as Cascade complies with the actions set forth in
16 this agreement and complies with the terms of this
17 agreement.

18 CHAIRMAN DANNER: Okay. So -- so in the --
19 in the places where we don't have any bold language
20 about penalties, if there's a violation of those
21 provisions, we could -- Staff could recommend penalties
22 saying that they're not -- the Company is not in
23 agreement with this settlement and, therefore, we can
24 recommend penalties and the Commission has the ability
25 to impose that?

1 MS. CARSON: I think that's correct. They
2 would not be suspended penalties. What's bolded here is
3 suspended penalties.

4 CHAIRMAN DANNER: Okay.

5 COMMISSIONER RENDAHL: So what the paragraph
6 appears to say is that if TRC comes up with additional
7 segments, potentially additional violations in their
8 review and then the Company's review, that those would
9 be subsumed under this agreement and the penalties that
10 have been identified. But if the Company does not
11 comply, so in that last sentence, if the Company either
12 is not performing the actions under the agreement or
13 does not comply, then Staff's agreement to forbear is
14 null and void, and they can go after the Company for
15 failing to comply with the agreement and bring a request
16 for violating the settlement to the Commission. That's
17 what I understand you saying.

18 MS. CARSON: That's my understanding. This
19 forbearance is based on the Company performing the
20 actions set forth in this agreement and complying with
21 the terms of this agreement.

22 COMMISSIONER RENDAHL: I guess I'll turn to
23 Staff and, Counsel, if you wish to weigh in, but I'm
24 going to turn to Mr. Rathbun and Mr. Ritter. Is that
25 your understanding of what this paragraph means?

1 MR. RATHBUN: I certainly would agree with
2 the Commission does have the ability to -- to enforce an
3 agreement. Honestly, I hadn't really thought about it
4 in that particular sense, but we understood forbearance
5 to mean that, in fact, we weren't going to pursue -- if
6 we found another pipeline while they were doing their
7 work, we weren't going to assess a penalty as long as
8 they were in compliance, you know, working their way
9 through the settlement agreement. If they're not in
10 compliance, it appears that, you know, the forbearance
11 does not exist.

12 CHAIRMAN DANNER: So, again, I mean, if --
13 just pick one, the December 31st completion of the
14 validation of the five segments, if that doesn't happen,
15 we would have -- you would have the ability to recommend
16 a penalty that is -- I mean, that would be -- that would
17 be the mechanics of this. I don't know that you could
18 actually issue a recommended penalty that was not part
19 of the suspended penalty for that, could you?

20 MR. BEATTIE: Chairman Danner, I don't know
21 if Staff would immediately jump to recommending
22 penalties in that situation. I would imagine that
23 these -- the procedure would be to first document that
24 there has been a missed deadline, and that documentation
25 would notify the Company you're out of compliance. And

1 I would imagine that we would see what the Company's
2 response was to that letter, and should the Company
3 continue to ignore that letter, then -- I mean, then we
4 could consider bringing this to the Commission as --
5 essentially I think what -- what Ms. Carson suggested
6 was calling that a violation of the settlement agreement
7 that warrants, you know -- you know, revisiting the
8 penalties. I don't think that we'd jump straight to a
9 monetary penalty.

10 CHAIRMAN DANNER: I'm not suggesting we
11 would. I certainly hope we could go and discuss it with
12 the Company. But, again, I mean, the purpose of this
13 settlement is twofold. I mean, we want to resolve these
14 issues, but we also want to keep the Company's feet to
15 the fire. It has a track record of missing deadlines,
16 and we're trying to figure out what do we do to keep
17 them on point so they're hitting these deadlines. And,
18 yes, we can go and talk to the Company. We're not gonna
19 say, gotcha, but at the same time, you know, I want
20 to -- I want to hold their feet to the fire. I want to
21 have a bit of a sword over their head.

22 MR. BEATTIE: All Staff can tell the Bench
23 at this stage is to repeat what Alan said, that we feel
24 that the particular suspended amounts at the particular
25 times are sufficient to accomplish that goal.

1 CHAIRMAN DANNER: Okay. So in other words,
2 if they don't -- if we don't get the report, if TRC
3 doesn't complete their review, basically that is all
4 going to channel into the next -- the next decision
5 point or crunch point where we do have authority to
6 issue to -- to include the 500,000 penalty suspended.

7 MR. BEATTIE: Right. And to be clear about
8 the \$500,000 penalty, that -- notice it's associated
9 with the completion date -- associated with any new high
10 pressure segments. Just in case there was any
11 misunderstanding, if the 500,000 isn't associated with
12 coming up with a plan to complete those additional
13 segments, it's the actual completion. So the intent is
14 that it gives the parties \$500,000 to work with in
15 coming up with that amended plan. It's not a -- it's
16 not a single chunk.

17 COMMISSIONER JONES: So, Mr. Beattie, on
18 that point by completion date, completion date of what?
19 Completion of the MAOP validation plan?

20 MR. BEATTIE: Correct.

21 COMMISSIONER JONES: Okay.

22 MR. BEATTIE: The idea is that another --
23 it's basically envisioning another minisettlement
24 agreement.

25 COMMISSIONER JONES: Okay.

1 MR. BEATTIE: And the parties have that
2 \$500,000 to work with in coming up. That could also be
3 spread over additional, you know, interim completion
4 dates.

5 COMMISSIONER JONES: Okay.

6 MR. BEATTIE: It doesn't have to be -- or it
7 could be -- I mean, we will have to negotiate that.

8 COMMISSIONER JONES: Okay. That's the
9 intent, okay. I understand that.

10 COMMISSIONER RENDAHL: All right. So there
11 is the -- paragraph 13 also gives the Company the right
12 to request to adjust the suspended penalties due to
13 things that are beyond the Company's control, and I
14 guess from the Company's perspective, what does Cascade
15 consider to be beyond its control?

16 MR. MARTUSCELLI: I think they had suggested
17 earlier that when we are designing these projects and
18 have to get permitting, right-of-way issues can be
19 fairly complicated. I mean, we are looking out seven
20 years, and those -- I mean, we've seen that those have
21 been pretty complicated up until now for certain -- for
22 certain areas. So that would be one instance that I can
23 think of that we would, you know, work with them.

24 COMMISSIONER JONES: Mr. Martuscelli, let's
25 drill down on that. When Mr. Ogden responded to me, he

1 described three broad areas of testing; in situ,
2 pressure testing, and replacement. So in situ
3 permitting would not be an issue, would it?

4 MR. MARTUSCELLI: Yes, it would require
5 excavation and we have to permit every single one of
6 those sites.

7 COMMISSIONER JONES: So you need a permit to
8 excavate.

9 MR. MARTUSCELLI: Jeremy, please correct me
10 if I'm wrong.

11 MR. OGDEN: On some of those we do could be
12 a right-of-way permit for the public right-of-way,
13 access, things like that.

14 COMMISSIONER JONES: So those are -- you
15 would describe those as beyond your control because
16 they're controlled by a local government permitting
17 authority.

18 MR. MARTUSCELLI: Correct.

19 CHAIRMAN DANNER: So if TRC doesn't do its
20 records review by the first quarter of '17, would that
21 be outside of your control?

22 MR. MARTUSCELLI: I do not believe that
23 would be outside of our control. We're in weekly
24 contact with them discussing the progress, and if
25 there's any indication they're not going to make it,

1 then they're going to have to adjust their staff to make
2 sure they can make it. It's not a request, it's a
3 deadline.

4 CHAIRMAN DANNER: Yeah, go ahead.

5 JUDGE FRIEDLANDER: This is Judge
6 Friedlander. If -- being in weekly contact with TRC,
7 have they updated you on the number of segments or
8 branch segments that they have found, and if so, what is
9 that number?

10 MR. OGDEN: They have not. The process for
11 getting that is they will review the records first, and
12 then once they've reviewed those records and created
13 their database, then they go through and do their MAOP
14 calculations to see if their records are traceable,
15 verifiable, and complete. So they're finishing the
16 first phase of that with the records review and now
17 they're transitioning into the point you were suggesting
18 where they would have a number for us, a preliminary
19 number.

20 JUDGE FRIEDLANDER: So what would they
21 update you weekly?

22 MR. OGDEN: How their progress is going, how
23 far along in the records review, which is what they have
24 up to this point, how far to that they've gone, how many
25 records they've reviewed, minutes per record to review,

1 things like that.

2 JUDGE FRIEDLANDER: Okay. So whether
3 they're still on track for the deadline?

4 MR. OGDEN: Yes.

5 JUDGE FRIEDLANDER: Okay. Thank you.

6 COMMISSIONER RENDAHL: So what parameters
7 did Cascade give to TRC for -- relating to the scope of
8 the records review?

9 MR. OGDEN: We provided to them our
10 company's procedure that's number 820 about MAOP
11 validation. It -- it's the guidance that we use to
12 determine if a record is traceable, verifiable, and
13 complete and if it can be used to validate MAOP.

14 COMMISSIONER RENDAHL: So is TRC examining
15 records for your entire Washington service territory or
16 only selected areas or what is the scope of their --
17 what records are they examining, your entire system?

18 MR. OGDEN: Our entire system in Washington
19 above 60 pounds -- or 60 PSIG.

20 COMMISSIONER JONES: So it's limited to 60?

21 MR. OGDEN: Yes.

22 COMMISSIONER JONES: Not anything on SMYS,
23 but just on the PSI?

24 MR. OGDEN: That's correct.

25 COMMISSIONER JONES: I have a little

1 question a little bit out of left field. It could be
2 beyond the control of question, but as you know, PHMSA
3 has not, at least I don't think it's updated its formal
4 regulations after San Bruno. They initiated a
5 rulemaking, Mr. Rathbun, right, in 2011?

6 MR. RATHBUN: If you're speaking to the
7 transmission and gathering lines rule, the -- what's
8 commonly called the Mega Rule --

9 COMMISSIONER JONES: The Mega Rule, yes.

10 MR. RATHBUN: Yeah, that is still in process
11 and the last -- the last -- the last version I saw on
12 the PHMSA deadline was December of 2017, but there's
13 lots of unknowns relative to that ever going forward.

14 COMMISSIONER JONES: Okay. The Mega Rule,
15 okay. We're going to call it the Mega Rule and we have
16 a new administration in now and who knows what's going
17 to happen. But my question is as it affects this
18 settlement, I'd like to hear from both Mr. Martuscelli
19 and Mr. Rathbun, if they come up with fairly
20 prescriptive regulations on MAOP validation that are
21 somehow different from -- what did you say, Mr. Ogden,
22 820? You have an internal code of 820 and what our
23 Staff is used to -- to addressing, how would that affect
24 the settlement agreement? Any thoughts on that?

25 MR. MARTUSCELLI: I'll start. We've

1 discussed the rule and we ended up to agree that we
2 really need to focus on current regulation. And until
3 regulation changes, we can't do anything with it. We
4 can certainly use it as a -- and we tried. In the
5 beginning, we tried to use it as a guide from the
6 perspective of just how long do we have to get this done
7 because we're starting from scratch. We have all these
8 lines. We may have more. Just what is an acceptable
9 timeline? The acceptable timeline as proposed right now
10 is eight years for the first 50 percent of the lines and
11 15 years for 100 percent of the lines.

12 So our schedule is extremely aggressive even
13 in light that -- that that is being proposed for PHMSA
14 right now. So we've had discussions and we just agreed
15 to -- let's focus on current regulation and do what we
16 need to do from there, and if regulations change, we
17 will need to determine how to incorporate that into a
18 plan B.

19 COMMISSIONER JONES: Pardon me, could you
20 just clarify the eight and 15. I am getting kind of
21 confused about dates. I'm looking -- eight years
22 applies to what and 15 years applies to what?

23 MR. MARTUSCELLI: The notice of -- Mike?
24 He's our expert on codes so I'm going to...

25 MR. EUTSEY: Commissioner Jones, Mike

1 Eutsey. So the MPRM, our Mega Rule, is specific as it
2 is in term right now. It breaks down for the companies
3 to provide the elimination of the grandfather clause on
4 an eight and then 15-year time frame, which we used as a
5 slight benchmark as we built our settlement agreement
6 here before you. But recognize that the pipelines that
7 we're addressing here go far and beyond the MPRM, the
8 Mega Rule, and they really do encapture and capsulate
9 all of Cascade's high pressure pipelines.

10 So they have -- I am confident that we will
11 have captured all aspects of the MPRM and then likely
12 are far ahead of what the federal regulation would be.
13 And, you know, we had discussed that as well through our
14 process. And the last piece, our CP that describes
15 traceable, verifiable, and complete, that comes from
16 PHMSA ruling and is built off of -- of their guidance,
17 and, again, I think it would be applied the same way in
18 the Mega Rule. So I think we'll be in a sound spot
19 regardless of when that rule passes.

20 COMMISSIONER JONES: So -- so you sound
21 fairly confident today, although no rule is final, you
22 would agree with me that no rule is final until it is
23 final?

24 MR. EUTSEY: Yes, completely agree, but I do
25 feel that we are in a good spot.

1 COMMISSIONER JONES: And there is no need to
2 put any sort of a reopener clause or revisitation clause
3 in the Company's view in the settlement agreement based
4 on this Mega Rule?

5 MR. EUTSEY: Correct. Again, without
6 getting into the nuances of the Mega Rule, which we
7 certainly could, but it's the Mega Rule so there would
8 be a lot to cover. It really is specific to
9 transmission, lines, operating class three and four
10 locations which, again, will far exceed that and be
11 operating at a good level.

12 CHAIRMAN DANNER: I mean, I think it's
13 important when we focus on compliance we're complying
14 with the laws as they exist, and so changes that come
15 forward, we will deal with them when they come forward.

16 MR. RATHBUN: And Commissioner Jones, Chair
17 Danner, it just reference that -- the settlement
18 agreement does reference the fact that their compliance
19 must meet, you know, current regulation or as amended by
20 PHMSA, you know, during the -- during the terms of this
21 agreement. It does reference that in the settlement
22 agreement.

23 Now, that being said, as the Company has
24 stated, I think one of the things that is advantageous
25 here is that under current regulation, you know, one of

1 the elements of current regulation is if, you know, for
2 precode pipe, what's commonly called the grandfather
3 clause allows a company to set MAOP based on the high
4 operating pressure between the times of 1965 and 1970.
5 And under this agreement, one, they didn't have those
6 records, but secondly here, this settlement agreement
7 requires them to gain all the information they need to
8 have to understand their pipe. So I think even with an
9 amended code, that this settlement agreement --
10 compliance settlement agreement puts them in better
11 shape than many companies that currently exist and
12 operate.

13 COMMISSIONER JONES: And, Mr. Rathbun, that
14 precode pipe describes the pipe that was installed after
15 nineteen -- before is 1970, right?

16 MR. RATHBUN: That's correct.

17 COMMISSIONER JONES: Was it 1970 is the
18 cutoff?

19 MR. MARTUSCELLI: That is correct.

20 MR. RATHBUN: Yes.

21 COMMISSIONER JONES: And there are, I think
22 in your Staff investigation report, that Whatcom,
23 you've -- at least when I reread it, the Whatcom
24 Bellingham inspection, that pipe where there were not
25 reliable records was installed in 1957, so that would be

1 one example of a precode pipe, right?

2 MR. RITTER: Commissioner Jones, that is
3 correct. One of the challenges that Cascade has and a
4 lot of the pipeline companies have is the code did not
5 require them to -- prior to 1970, to keep a lot of the
6 records that we are asking them to have. There was --
7 basically there was a code, ASME had a pipeline code
8 that was the best practice that basically said you
9 should keep all these records, but there was no -- there
10 was no clarification or regulation that required it.

11 So when PHMSA came up with a rule, I --
12 actually was a railroad commission, I believe, prior to
13 1970, that grandfather clause was put in there
14 specifically because a lot of these pipeline companies
15 did not have the appropriate records and they had to
16 have something.

17 So they allowed them to pick whatever
18 pressure they actually had a record for, whether that
19 was something out of a compressor station, something out
20 of an operation or maintenance task where they had a
21 piece of paper that showed a pressure. And
22 unfortunately for Cascade in this particular case, they
23 don't have a lot of those grandfather clause records.

24 But, again, from our perspective as
25 regulators, that verifiable, traceable, and complete is

1 a pretty big deal now. If you can't prove your case,
2 then you don't have a case. So that's kind of the
3 direction we went, and that is basically what launched
4 us to this point is verifiable, traceable, and complete.

5 COMMISSIONER JONES: Thank you for that
6 explanation.

7 COMMISSIONER RENDAHL: So this is for
8 Cascade, so how many of the 116 segments has the Company
9 addressed so far? I mean, I understand the Company's
10 been in -- working on this even though, you know, the
11 settlement is still in process, but I know you haven't
12 stopped work on this while you're waiting for us to act
13 on this. So where are we so far?

14 MR. OGDEN: I am counting them up right now
15 as we speak, but it looks like we've addressed about 16
16 segments. We have replaced just under one mile of
17 pipeline, and through our testing efforts, once the --
18 the final paperwork is complete, all the field work is
19 done, we will have addressed about 45, 46 miles of
20 pipeline up to this point.

21 COMMISSIONER RENDAHL: And how many of those
22 include those five highest priority segments or have you
23 not addressed those yet?

24 MR. OGDEN: Out of the five highest
25 priority, we've done the testing on four of them, the in

1 situ to determine grade, and that has taken them out of
2 the high risk above 30 percent range. The fifth one is
3 a fitting on a pipeline. It's not the actual pipe
4 itself. There's a plug in the end that we will be
5 looking at.

6 COMMISSIONER JONES: And what pipeline
7 segment is that? You listed for us before --

8 MR. OGDEN: The one, the one that has --

9 COMMISSIONER JONES: With the fitting issue
10 that you haven't addressed yet.

11 MR. OGDEN: That is the North Whatcom line.

12 COMMISSIONER JONES: That's North Whatcom.

13 MR. OGDEN: The 16-inch North Whatcom
14 transmission line.

15 COMMISSIONER RENDAHL: Thank you. So
16 Appendix N, do you have the Staff investigation report
17 with you? So Appendix N of that report was an email
18 from Mr. Ogden to the Commission Staff that had a table
19 about the total unvalidated mileage and total mileage by
20 district, and I guess this question is also for Staff.
21 So do both parties agree with the accuracy of this data
22 or are you still refining that data?

23 JUDGE FRIEDLANDER: Okay. So I have a copy
24 of Appendix N. With counsel's approval, I will just
25 give them the copy. Does Staff have a copy?

1 COMMISSIONER RENDAHL: So the question is,
2 really is, is this -- this was earlier this year or
3 earlier in the year in June, and is this number
4 validated or are we still working on validating if this
5 is the correct number of mileage of pipeline?

6 MR. OGDEN: This is in reference to the 116
7 segments?

8 COMMISSIONER RENDAHL: Yes.

9 MR. OGDEN: The number is correct for the
10 116 segments.

11 COMMISSIONER RENDAHL: And for Staff, are
12 you in agreement with that?

13 MR. RATHBUN: Staff would agree with that,
14 yes.

15 COMMISSIONER RENDAHL: Okay. All right.
16 Thank you.

17 And then so I have a question about so you
18 have TRC is the consultant working with you on your MAOP
19 documentation and verification. Do you have a different
20 consultant working with you on the API Rule 1173
21 process?

22 MR. MARTUSCELLI: Mike, do you want to...

23 MR. EUTSEY: Currently we are working
24 through that process with our entire utility group,
25 we're putting together an RFP to produce that -- or give

1 that to the contractors that we have selected that would
2 be a good fit. We reached out to WUTC Staff and they
3 had given us some contacts that would be good
4 contractors to look at, and we built our own list as
5 well. And I expect to get that out as soon as possible,
6 but likely by the six to eight weeks I would guess.

7 COMMISSIONER RENDAHL: When you say your
8 whole utility group, is that the whole MDU level utility
9 or just within Cascade?

10 MR. EUTSEY: Correct, that's everyone. So
11 there's representatives, myself is on the team as well
12 as Scott and members from IBC and MDU.

13 COMMISSIONER RENDAHL: Okay. And have
14 you -- do you have a different representative, then, for
15 the -- obviously Mr. Martuscelli is going to be the
16 point of -- the point person for the compliance plan,
17 the MAOP plan, and is there someone who's a different
18 point of reference for Commission Staff to work with on
19 the API standard?

20 MR. EUTSEY: I don't know that we've really
21 discussed that. I would expect Eric would still be that
22 point of contact through that process as well.

23 COMMISSIONER RENDAHL: Okay. I have a
24 question for Staff which is, so the settlement requires
25 the Company to have a point person to communicate with

1 you, but have you designated someone -- one person
2 within your staff to track the compliance with the
3 settlement?

4 MR. RATHBUN: I -- given -- Commissioner
5 Rendahl, given my pending retirement, I -- my guess is
6 at this point, you know, I have been point of contact at
7 this point; however, I think we will probably formally
8 say that our Chief Engineer, Joe Subsits, will be the
9 point of contact until a new director is appointed. And
10 I would like to at least give that person the ability to
11 realign that point of contact if deemed appropriate.

12 COMMISSIONER RENDAHL: So there won't be --
13 I know that different inspectors, you know, work on
14 different projects and as much as, you know, the Company
15 is focusing its efforts and making sure there's one
16 person assigned, I would hope that Staff is also given
17 the attention and not distributing the focus for
18 compliance with this settlement and making sure that
19 there's one person who can keep track of this.

20 MR. RATHBUN: Yes, Commissioner Rendahl, I
21 think it's important from our perspective that this not
22 be aligned to one inspector, that it be at management
23 level within the pipeline safety program to ensure that
24 there is no slippage and that, you know, we're keeping
25 our eye on this throughout its -- throughout its tenure

1 of this agreement and carry it forward. So the point of
2 contact will be at a management level within pipeline
3 safety. Obviously we still utilize the expertise of our
4 inspectors that are going out and visiting the company
5 on a routine basis, but we will have a point of contact
6 which is definitely located at your headquarters.

7 COMMISSIONER RENDAHL: Thank you.

8 COMMISSIONER JONES: I just have kind of a
9 final -- a final more of a high level question first to
10 you, Mr. Rathbun. You -- your Staff investigation
11 report in the summary had some pretty strong words about
12 Cascade's management culture. You said Cascade has
13 demonstrated a lax attitude toward compliance that
14 exposes our public to an unacceptable level of risk if
15 they didn't meet their deadlines. So where are they
16 right now? I am not asking you to put a number or
17 whatever on their culture of compliance, but where are
18 they right now in your opinion? You -- by entering into
19 the settlement agreement, you appear to be noting some
20 progress.

21 MR. RATHBUN: Yes, Commissioner Jones.
22 Staff has seen a -- I think a significant change in, you
23 know, in Staff's, for lack of a better term, attitude
24 towards compliance. I think we were obviously very
25 disappointed that the deadline was missed, but then we

1 were also disappointed with their first submission,
2 which asked -- which asked for allowances which we, one,
3 did not feel appropriate and certainly wasn't something
4 that Staff could do in any event.

5 You know, I think we have had several
6 face-to-face meetings and as a result of those
7 face-to-face meetings, I think it's -- we have seen
8 Cascade being very responsive and taking a real
9 initiative in bringing about changes in their
10 organization.

11 We also have been very supportive, seen the
12 very -- much support from the CEO to executive vice
13 president being present at all our meetings to brought
14 about this settlement agreement. So I think we have
15 seen a commitment from management, not just of Cascade,
16 but of MDU as well. So I think our -- our opinion
17 has -- has -- has changed from a standpoint of that
18 language that was in the complaint document, but that's
19 where they were and we think that it's a lot better
20 circumstance right now.

21 COMMISSIONER JONES: Mr. Martuscelli, I see
22 we have the CEO of MDU in the audience as well as senior
23 executives. Talk about your -- how you've changed over
24 the past year, year and a half specifically. I mean,
25 I'm a big believer in management structure within a

1 company too, to the board, compliance, audit. It's not
2 just -- not to take away from Mr. Eutsey in tracking
3 compliance deadlines, that's important. But I think
4 culture and management structure is important too.
5 Could you address those?

6 MR. MARTUSCELLI: Sure. So I mean, we've
7 certainly found ourselves in an unenviable situation
8 missing the deadlines, and I would agree that we've made
9 a lot of progress. It is my job to set the culture at
10 our company with the support of Nicole, the support of
11 Scott. It does come down to me. We missed the deadline
12 for a very important submission, and I take full
13 responsibility for that. We should have had procedures
14 in place and checks and balances in place so that we did
15 not miss that.

16 You know, between January and April, I would
17 say we did a lot of growing. We talked a lot internally
18 about how we arrived at where we were, why we were
19 asking for allowances, and I would just say that I think
20 we weren't fully aware of what the regulation meant
21 around the grandfather clause, and that's why we ended
22 up at the allowance stage.

23 We were originally working with another
24 pipeline safety director and had another director of
25 safety operations at the helm during this process, and

1 there was a lot of discussion and a lot of work with the
2 previous pipeline safety director. And I think we felt
3 that there was, you know, a different -- some type of an
4 agreement between the companies to just work this out,
5 and that added to a level of -- we assumed a few things
6 that -- that led us to ask for these allowances and
7 thinking that this was something that would be
8 acceptable based on our understanding of the grandfather
9 clause.

10 You know, when you're in a position such as
11 mine and you get a letter from the pipeline safety
12 director saying that you missed the deadline like we
13 did, it is a wake-up call, and we spent many hours
14 sitting around the table talking about our culture and
15 deciding what are we going to do to make these changes.
16 And the very first one was, you know, we're not going to
17 ask for allowances anymore. We need to understand code
18 better than we've ever understood it and where we need
19 assistance and guidance, that's where pipeline safety
20 staff comes in. I mean, we need to work together as a
21 team. I understand and put myself in their shoes, and
22 when it comes to things of these nature, and I
23 understand why we're here today, and I take
24 responsibility for that.

25 We've made some leadership changes that I

1 think are going to be very important to us with Mike in
2 his position. We've created a new department, the
3 assistant integrity department. Hopefully by the end of
4 this week, I'll be able to announce our new director of
5 system integrity, which will encompass this entire plan
6 so that we can put a primary focus on delivering, you
7 know, a product that they were promising here and that
8 is being in compliance with all of our pipelines.

9 COMMISSIONER JONES: So on that point, yes,
10 and I appreciate your apology. I didn't mean to ask for
11 that. I appreciate you --

12 MR. MARTUSCELLI: I think it was due.

13 COMMISSIONER JONES: -- you mentioning that.

14 Would this system integrity unit be MDU-wide
15 or Cascade Intermountain or is it MDU-wide?

16 MR. MARTUSCELLI: Currently it's a Cascade
17 position.

18 COMMISSIONER JONES: Okay. Okay. And then
19 talk -- the second part of my question was governance,
20 how you keep the board and senior management informed.
21 Have you instituted any practices? Do they ask you for
22 an update on PHMSA rules with compliance with the UTC
23 order and other orders out there?

24 MR. MARTUSCELLI: Yeah, so my job, you know,
25 going forward is to certainly keep Scott and Nicole in

1 the loop on -- on -- on things of that nature. We've
2 set up a quarterly meeting with Scott and Nicole, and I
3 to update them on the progress, not only of this plan,
4 but for any of the regulations that are coming out. I
5 mean, many of us have signed up to, you know, the WinDOT
6 regulation announcement through email, and I did some
7 notifications of what the changing environment is from a
8 regulatory standpoint.

9 Again, we've implemented new procedures so
10 that whenever an advisory bulletin comes out or an
11 indication of a new rule is indicated in the Federal
12 Register, we immediately take a look at our procedures
13 and determine if there's any changes that need to be
14 made, whereas before, maybe there was not as much
15 emphasis on that.

16 So keeping Scott and Nicole and the Board,
17 through Nicole and Scott, updated on our progress, and
18 they'll require periodic reports as well along with a
19 six-month report that I will be giving to the Staff, I
20 think we're going to have plenty of documentation to
21 keep people updated on the progress.

22 COMMISSIONER JONES: Okay. Thank you.
23 That's all I had.

24 Mr. Chairman.

25 CHAIRMAN DANNER: Yeah, I have -- just going

1 back here to a couple more provisions that, again, I
2 want to discuss the forbearance one more time. In the
3 narrative, it talked about how this -- this penalty was
4 appropriate because this was really just a -- a -- an
5 issue about records management and so forth, and that
6 nobody has been hurt or killed in any accidents. And so
7 when you're discussing the amount of penalty, that was a
8 factor in where you decided to set the recommendation
9 and -- and I agree with that. The concern I have is we
10 get this pipeline program up and running and the Company
11 continues to comply. It could be that just the nature
12 of this business, if we were to have an accident, Heaven
13 forbid, in downtown Bellingham, a fatality of some kind,
14 we're going to be basically bound by this.

15 So, I mean, if we had the equivalent of San
16 Bruno in Bellingham, do we have an opportunity to
17 revisit what kind of actions would be appropriate,
18 because we're still not -- you know, the nature of
19 pipeline safety is such that something could happen
20 tomorrow. So while we've set a course of action here,
21 it could mean that we still don't know that there --
22 that something can go wrong before this is done. And I
23 wanted to know, are you forborne from -- from coming in
24 and recommending an additional penalty if we were to see
25 something like that?

1 MR. RATHBUN: I may have looked to legal
2 counsel a little bit here, and, again, I think our
3 intent of forbearance here was -- was -- was to -- was
4 to limit it simply to those elements that we identified
5 from a noncompliance standpoint which dealt with MAOP.
6 And our experience with incidents and accidents here in
7 the state of Washington, as well as others around the
8 country, is that it's often much more than a single
9 element that brings about a catastrophe as happened in
10 San Bruno. Obviously MAOP was an element of that
11 particular incident, and we recognize that as well as
12 anyone, but I don't think we are at all restricted in
13 bringing other actions be that there might be some other
14 elements, if there were other elements, that brought
15 about a compliance. I think we are still there.

16 And the other thing I want to reference --
17 well, I'm not exactly sure how much the Commissioners
18 are aware of 1173. Our intent behind the audit of 1173,
19 you know, audit and then movement towards an improved
20 quality culture in Cascade is exactly that. It's about
21 a continuous process of improvement that we want Cascade
22 to pursue. It's not just MAOP. That compliance is
23 not -- compliance safety and safety is not a department
24 within a company. It's not a program within a company.
25 It is, in fact, everything that the company does.

1 Everything from management to being willing to hear bad
2 news to instituting constant continuous improvement.

3 So that was one of the reasons, too, that,
4 you know, Staff wanted to see this audit there. We
5 wanted to see Cascade take the step forward beyond just
6 compliance but to really look at building their safety
7 culture within their organization.

8 CHAIRMAN DANNER: Counsel, does counsel have
9 their -- their views on this?

10 MR. BEATTIE: Chairman Danner, I understand
11 the intent behind your question, and I appreciate where
12 you're coming from. With respect to forbearance, it's
13 my impression that the intent behind that paragraph was
14 not to anticipate -- I'm not actually sure we really
15 anticipated the questions you're asking now. The real
16 intent there was to put it in very simple terms, let's
17 say you have ten pipes you're looking at now you
18 discover an 11th pipe. That's not a breach of the
19 settlement agreement. You fold that into your list and
20 you have to get it all by 2023.

21 That was really the idea behind paragraph
22 ten is that it's intended to be a global settlement with
23 respect to this particular recordskeeping issue. So it
24 certainly wasn't, in my opinion, the intent to -- to
25 then say if there is an explosion, this is the

1 document -- the first document that we look at to
2 determine what sort of penalties.

3 CHAIRMAN DANNER: Yeah, and I think that's
4 where my questions are. I just want to make sure that
5 we're not -- you know, this thing doesn't shrink-wrap
6 all of our enforcement, so when we have future accidents
7 or we see deadlines being missed, that we are hamstrung
8 from taking steps that we feel are appropriate or the
9 public would expect of us because to say, oh, no, we're
10 down by four quarters of this document.

11 And so, you know, I'll go back and take a
12 look at it and parse it out and see if I'm comfortable
13 with that. I mean, I appreciate your comments. That
14 does give me comfort, but I just want to make sure that
15 legally we're not constraining our ability to do
16 reenforcement when we think it needs reenforcement.

17 MR. BEATTIE: I understand.

18 CHAIRMAN DANNER: Ms. Carson, do you have
19 any additional observations?

20 MS. CARSON: Well, I agree with that. I
21 mean, there are limitations obviously to this
22 forbearance provision. It relates to similar violations
23 relating to MAOP validation, which are basically
24 paperwork documentation violations. So, you know, I
25 think the Commission can -- can reply on some of the

1 language in here to limit.

2 CHAIRMAN DANNER: Okay. And then my last
3 question, I really think this is a clarification really,
4 the Company agrees that it won't seek recovery penalties
5 as part of the settlement, but it may seek recovery of
6 its cost to comply with the terms. There again seeking
7 recovery means that we -- there is nothing that limits
8 our prudence review if we find that, you know, the cost
9 of compliance now compared to the prudent actions they
10 should have taken earlier, we could take that into
11 consideration in determining recovery rates. Is that
12 your understanding?

13 MS. CARSON: That's my understanding. This
14 is not intended to take away your ability to review for
15 prudence, but it gives the Company the right to request
16 recovery.

17 CHAIRMAN DANNER: Thank you.

18 JUDGE FRIEDLANDER: I just have a quick
19 clarifying question as far as the branch segments and
20 the segments go. You had multiple questions from the
21 Commissioners on this. Help me understand if we're
22 being duplicative in those numbers. We've got 116
23 segments, but 400 branch segments. Are those 400 branch
24 segments along the 116 segments or are they separate?

25 MR. OGDEN: Your Honor, those would be

1 separate from the 116 segments.

2 JUDGE FRIEDLANDER: Okay. So we've actually
3 got perhaps 516 total segments or -- so far?

4 MR. OGDEN: Yeah, depending on what the
5 results of the TRC work are.

6 JUDGE FRIEDLANDER: Okay. And then going
7 back to a question I believe that Mr. Rathbun answered,
8 as far as the amended application, whatever number that
9 TRC delivers in its report this first quarter, at the
10 end of the first quarter of 2017, the amended agreement
11 between Staff and the Company would contain that number
12 as well as the same enforcement deadlines for those
13 segments; is that correct?

14 MR. RATHBUN: In -- so I -- Judge, just so I
15 understand, are you -- is the question as to whether or
16 not the -- any of the added -- any of the added branch
17 segments would also fall under the same deadlines
18 currently outlined?

19 JUDGE FRIEDLANDER: Yes.

20 MR. RATHBUN: It is my understanding, you
21 know -- our understanding of the agreement is that once
22 that information comes in, part of that negotiation will
23 be to determine whether or not everything can be
24 accomplished within that original time frame. Not
25 knowing that total issue right now, it was impossible

1 for the -- for the Company to be able to assure that. I
2 think what -- what we have understood is that -- that
3 the preliminary look at those branch segments, pipe
4 segments, was that most of them would not -- or the vast
5 majority would not fall into a high priority from a
6 standpoint of risk. But I don't think there has been a
7 guarantee at this point everything in the additional
8 branch segments would necessarily be completed within --
9 in the 2023.

10 MR. MARTUSCELLI: Our timeline has been set
11 by the 116 segments. So as we get the information from
12 TRC, we can certainly consider whether we can fit any of
13 those nonvalidated pipes into that timeline, but it was
14 certainly our understanding that we would be talking
15 about an additional timeline or an additional length of
16 time to incorporate these additional segments. Not
17 knowing how many there are, it's tough to say right now
18 whether we can or can't.

19 JUDGE FRIEDLANDER: So then is it feasible
20 from both parties' standpoints, then, that we could
21 approve this settlement and then reject the amended
22 agreement and you would still -- you would still be
23 bound to correct the 116, but if we found that the time
24 frame was too long or other enforcements that may be
25 contained within the settlement, the amended settlement,

1 were not in the public interest, then we could reject
2 that and this settlement would still be valid?

3 MR. MARTUSCELLI: That is certainly my
4 understanding. I think we'd go through the same process
5 as we did with these 116 segments with the results of
6 the TRC review.

7 JUDGE FRIEDLANDER: Okay. And is that
8 Staff's understanding?

9 MR. RATHBUN: That would be Staff's
10 understanding. And also, I want to say that if in the
11 evaluation of TRC that any of those branch segments rose
12 to a priority level from standpoint of risk assessment,
13 that they could perhaps even be substituted from a --
14 from a -- or put into that original prioritization
15 level. And, again, that prioritization level based on
16 the risk assessment that Cascade performs once that
17 additional information is submitted by TRC.

18 JUDGE FRIEDLANDER: Right.

19 MR. RATHBUN: So you could be replacing some
20 of those that would slide down a priority level in
21 the -- of the 116.

22 JUDGE FRIEDLANDER: Is that your
23 understanding, Mr. Martuscelli?

24 MR. MARTUSCELLI: It certainly is.

25 JUDGE FRIEDLANDER: Okay.

1 MR. MARTUSCELLI: I mean, we definitely want
2 to focus on risk. We think because of our previous
3 review of the lines and assuming most conservative
4 values, that we don't think we're going to fall into
5 that category, but it remains to be seen.

6 JUDGE FRIEDLANDER: So then -- I'm sorry. I
7 was just going to ask, then, so that I understand, you
8 could be asking potentially to modify this settlement at
9 that point. If TRC finds pipe segments that are a
10 higher priority than first assumed, then you would be
11 asking to modify this settlement to include those; is
12 that correct?

13 MR. MARTUSCELLI: That seems appropriate. I
14 think we have to put those -- those segments into the
15 risk model to determine whether they would fall. I
16 don't want to, you know, say that we can't -- we need to
17 be able to do that. I mean, it's all based on risk, and
18 so, yes, there might be some segments that get moved
19 into this -- into this timeline.

20 JUDGE FRIEDLANDER: And I think that's
21 probably -- you know, it goes back to Chairman Danner's
22 comments that we have a lot of unknowns in this
23 settlement and a lot of unknowns in the results that are
24 going to come from TRC. So, you know, I guess then we
25 will see what happens with the report.

1 Commissioner Jones, did you have a --

2 COMMISSIONER JONES: Well, there are some
3 unknowns, but there are some knowns as well. And so the
4 known is that you're going to run it through the
5 weighted risk metric that we talked about before, right?

6 MR. MARTUSCELLI: Yes.

7 COMMISSIONER JONES: So if it falls
8 relatively lower on that weighted risk metric, it won't
9 come to the fore, and I just don't want to get hung up
10 on this segments and branch segments. Branch segments
11 to me is lesser mileage, right? I mean, what's the
12 average length of a branch segment from a regulator
13 station or whatever?

14 MR. OGDEN: Typically a branch segment is --
15 as I mentioned earlier, is going to lead to a regulator
16 station. So we're talking a hundred feet.

17 COMMISSIONER JONES: A hundred feet.

18 MR. OGDEN: More or less. It could be
19 longer; it could be shorter, but most of them are going
20 to be in that range.

21 COMMISSIONER JONES: And of the high
22 priority 116 pipeline segments, these would be much
23 longer, relatively longer, right?

24 MR. OGDEN: Yes.

25 COMMISSIONER JONES: What would be the

1 average length of a pipeline segment, a mile?

2 MR. OGDEN: Well, it's 222 miles, 116
3 segments, so an average of just under two miles.

4 COMMISSIONER JONES: Just under two miles,
5 okay. Thanks.

6 JUDGE FRIEDLANDER: All right. Is there
7 anything else that the parties wish to raise with the
8 Commission?

9 All right. Thank you all for your testimony
10 and for your time. And we are adjourned. Thank you.

11 (Adjourned at 11:19 a.m.)
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C E R T I F I C A T E

STATE OF WASHINGTON
COUNTY OF THURSTON

I, Tayler Russell, a Certified Shorthand Reporter
in and for the State of Washington, do hereby certify
that the foregoing transcript is true and accurate to
the best of my knowledge, skill and ability.

Tayler Russell, CCR